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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,538

05/20/2006

Yoshihiro Hirata

KOD190B.001APC

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7590

10/12/2006

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EXAMINER

RALIS, STEPHEN J

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/566,538	<b>Applicant(s)</b> HIRATA ET AL.	
	<b>Examiner</b> Stephen J. Ralis	<b>Art Unit</b> 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/31/2006</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. Applicant's claim for foreign priority benefit of Japanese Application No. 2003-284631, filed 01 August 2003, is acknowledged and granted.

### ***Information Disclosure Statement***

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Oath/Declaration***

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
It does not identify the citizenship of each inventor.

***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a) because they fail to show grip (206), hair-sandwiching arm (207), spring (212), temperature selector (220), affixing part (110), heat-source plate (115) and temperature selector switch (120) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "109" and "109'" have both been used to designate the

Art Unit: 3742

second gasket. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. Figures 8 and 9 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: (109) and (111). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action

Art Unit: 3742

to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

8. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Art Unit: 3742

9. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

In the instant case, the Abstract is constructed similar to a claim (i.e. being a single sentence with claim language).

Appropriate correction is required.

10. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: A Sandwich-Type Hair Iron with Gasket Protection of Temperature Control and Display Components.

### ***Claim Objections***

11. Claim 2 is objected to because of the following informalities: "a gasket" should read –a second gasket– to not interfere with the initial "gasket" recited in claim 1.

Appropriate correction is required.

***Joint Inventors – Common Ownership Presumed***

Art Unit: 3742

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.



Art Unit: 3742

15. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okumoto et al. (U.S. Patent No. 6,173,718) in view of Van Dyck et al. (U.S. Patent No. 4,101,757).

Okumoto et al. disclose a hair iron of V-shaped, hair-sandwiching type, comprising a pair of hair- sandwiching arms which are pivoted and openably/closably connected to each other (see Figure 1, 7-9), each hair-sandwiching arm comprising: a temperature-adjustable heat-source plate and a heating plate which receives heat from the heat-source plate (plain heater H nested in plate 8; column 4, lines 21-26), said heating plate facing another heating plate of the other hair-sandwiching arm, thereby sandwiching hairs when the hair-sandwiching arms are closed (hair styling iron; see Figure 1, 7-9); a pair of right and left shielding members with respect to a longitudinal axis of the hair-sandwiching arm, said right and left shielding members having respective inner peripheries attached to each other and respective outer peripheries connected to right and left connecting portions of the heating plate, thereby forming a void space enclosed by the right and left shielding members and the heating plate, wherein the heat-source plate is placed inside the void space (see Figures 4a, 4b, 10b); a tapered portion (grooves 20; column 4, lines 64-67; see Figures 4a, 4b) being provided in the base and the heating plate having a groove in the outer periphery of the hair sandwiching arm (see Figures 4a, 4b, 10b); a biasing member provided at a pivot where the right and left hair-sandwiching arms are pivoted, said biasing member urging the right and left hair-sandwiching arms to open (spring 12 or spring shaft 38).

The claims differ from Okumoto et al. in calling for gaskets fitted between the right shielding member and the right connecting portion of the heating plate and between the left shielding member and the left connecting portion of the heating plate, respectively, for improving steam cutoff property of the void space; a center gasket placed between the inner peripheries of the hair-sandwiching arms; and a temperature controller being placed in the void space. However, hand irons with sealing members in the peripheries with temperature controllers within the void provided within the assembly, as described by Van Dyck et al., is known in the art. Van Dyck et al. teach a thermostat 72 and heating wire 70 provided within the void/tubular core 69 of heating element 12 column 4, line 66 –column 5, line 4) to provide a temperature controller in close proximity to the heating apparatus, thereby providing a more accurate regulation of the temperature of the apparatus. Van Dyck et al. further explicitly teach gaskets (rings 76) of high temperature moisture resistant material, such as silicone rubber, to protect the elements within the heating portion from short circuits and moisture (column 5, lines 7-15), thereby increasing the operational longevity of the hair heating apparatus. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Okumoto et al. with the temperature controller in the void of the heating apparatus of Van Dyck et al. to provide a temperature controller in close proximity to the heating apparatus, thereby providing a more accurate regulation of the temperature of the apparatus. It would have further been obvious to one of ordinary skill in the art at the time of the invention was made to modify Okumoto et al. with the gaskets teaching of Van Dyck et al. to protect the elements within the heating portion

Art Unit: 3742

from short circuits and moisture, thereby increasing the operational longevity of the hair heating apparatus.

With respect to the limitation of a center gasket being placed between the inner peripheries of the hair-sandwiching arm, Van Dyck et al. explicitly teach the usage of gaskets to reduce the potential of short circuits and moisture damage, thereby increasing the operational longevity of the hair heating apparatus. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the Okumoto et al. with an additional center gasket placed between the inner peripheries of the hair-sandwiching arm, since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art.

16. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okumoto et al. (U.S. Patent No. 6,173,718) in view of Van Dyck et al. (U.S. Patent No. 4,101,757) as applied to claim 5 above, and further in view of Thompson et al. (U.S. Patent No. 5,783,800).

The Okumoto-Van Dyck hair iron combination discloses all of the limitations, as described in claim 5 above, except for a temperature display placed on the right and left shielding members of one of the hair-sandwiching arms opposite to the heating plate. However, placing a temperature display on the right and left shielding members of one of the hair-sandwiching arms opposite to the heating plate, as described by Thompson et al., is known in the art. Thompson et al. teach a hair iron comprising a temperature display (suitable temperature indicators; column 3, lines 39-43) on one of the

Art Unit: 3742

sandwiching arms opposite the heating plate (can be provided on the members 12 and 14; column 3, lines 39-43) to provide the operator knowledge of when the temperature of the various portions of the apparatus have reached a desired temperature, thereby providing a safer and more user friendly heated hair iron. Thompson et al. further teach a thermostat control being provided in the sandwiching arms opposite the heating plate (members 12, 14; column 3, lines 42-44). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the sandwiching arms opposite the heating plate of the Okumoto-Van Dyck hair iron combination with the temperature display in the sandwiching arms opposite the heating plate of Thompson et al. to provide the operator knowledge of when the temperature of the various portions of the apparatus have reached a desired temperature, thereby providing a safer and more user friendly heated hair iron.

### ***Prior Art***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Japanese Publication No. JP 2000-166634; JP 2002-291517; JP 2003-024127 and JP 2003-339422 are cumulative to or less pertinent than the references relied upon above.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Ralis whose telephone number is 571-272-6227. The examiner can normally be reached on Monday - Friday, 8:00-5:00.

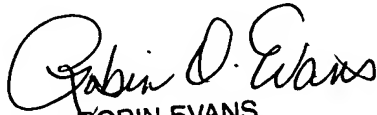
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Stephen J Ralis  
Examiner  
Art Unit 3742

SJR  
September 28, 2006



ROBIN EVANS  
SUPERVISORY PATENT EXAMINER  
10/2/06